IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.600 OF 1986

Bank of India ..Plaintiffs

Vs.

Medical Publications ..Defendants

Mr.N.S.Fadia for the plaintiffs

None for the defendantss

CORAM : S.U.KAMDAR, J
DATED : 3RD MARCH, 2006

P.C.:

1. The present suit is filed for the recovery of sum of Rs. 1,45,181.42 with interest @ 19.5% p.a. on the principal amount of Rs.65,916.68. Some of the material facts of the present case are briefly stated as under:

2. Defendants are the constituent of the plaintiffs bank and were enjoying various facilities. Sometime in or about 1979, the defendants approached the plaintiffs bank and offered a cheque for purchasing of a amount of 3750

sterling pounds which was supposed to be issued in favour of Pergamon Press Ltd. U.K. The said cheque was supposed to have been issued for a consignment of 500 copies of Parikh's text books which was supposed to have been sold by the defendants to the said company. The plaintiffs accordingly purchased the said cheque and credited the account of the defendants for the amount of Rs.65,916.68. However, when the said cheque was presented to the bank of said Pergamon Press Ltd., the same was dishonoured for non-payment and was returned stating that the said cheque was lost in transit and the Pergamon Press Ltd. had directed their bank not to make payment to nay person. By letter dt.29.12.83 the said National Westminister Bank Ltd., UK informed the plaintiffs bank that the payment under the said cheque has been stopped and a letter of credit was issued in lieu of the said stopped cheque. The defendants, however, withdrew the money from the bank and accordingly the present suit was required to be filed by the plaintiffs against the defendants for the recovery of the aforesaid amount.

3. Defendants are served. Defendants have filed the written statement cum counter claim. On 16.2.06 the learned counsel for the defendants appeared and stated that the defendants and their advocate are no more available in India as they are migrated to U.S. and therefore, they have no instructions to prosecute the suit. Matter was accordingly kept on 23.2.06 and 24.2.06. None appeared for the defendants. Inspite of service defendants are not prosecuting the suit. In that light of the matter, matter was placed for ex-parte decree. Plaintiffs have tendered the documents which are taken on record and marked Ex.A collectively.

4. In view of no defence being raised and the defendants being absent there shall be decree as against the defendants and in favour of the plaintiffs for the sum of Rs.1,45,181.42 with further interest @ 12% Simple Interest from the date of the suit till payment and / or realisation. Defendants shall also be liable to pay cost of the suit. Counter claim of the defendants is dismissed. Suit disposed of accordingly. Refund

of court fee as per rules.